

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

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for May 11, 2005 PLANNING COMMISSION MEETING

**P.A.S.:** Change of Zone #05004 Pine Garden PUD

**PROPOSAL:** Change the zoning designation from AG to R-3 PUD, and approve a development plan for 28 dwelling units and 22,000 square feet of commercial floor area.

**LOCATION:** 84<sup>th</sup> Street and Old Cheney Road

**LAND AREA:** 5.87 acres, more or less

**WAIVERS:**

1. Preliminary plat process.
2. Reduce private roadway width from 27 feet to 22 feet.
3. Reduce rear yard setback on Lots 1 through 20.
4. Reduce front yard setbacks on Lots 1 through 20.
5. Lot width to depth ratio.
6. Cul-de-sac radius for South 83<sup>rd</sup> Court.
7. Allow up to 2 non-resident employees for home occupations in units 11-20.
8. Allow up to 50% of the floor area in units 11-20 to be used for home occupations.
9. Allow commercial lots without frontage or access to a public street.

**CONCLUSION:** Staff found this change of zone and PUD in general conformance with the Comprehensive Plan and zoning ordinance under the previous proposal. As now proposed, this project presents significant issues related to traffic safety, neighborhood impact, and use intensity. City staff would continue to support this project as originally proposed by Applicant, but cannot support it without use limitations.

**RECOMMENDATION:**

Denial

Should the Planning Commission choose to recommend approval, the following waivers are acceptable:

1. Preliminary plat process.
2. Reduce private roadway width from 27 feet to 22 feet.
3. Reduce rear yard setback on Lots 1 through 20.
4. Reduce front yard setbacks on Lots 1 through 20.
5. Lot width to depth ratio.
6. Cul-de-sac radius for South 83<sup>rd</sup> Court.
7. Up to 2 non-resident employees for home occupations in units 11-20.
8. Up to 50% of floor area in units 11-20 used for home occupations.

9. Allow commercial lots without frontage or access to a public street.
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**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lots 90, 91, and 113 of Irregular Tracts, located in the SE 1/4 of Section 10 T9N R7E, Lancaster County, Nebraska

**EXISTING LAND USE AND ZONING:** Vacant                      AG Agricultural

**SURROUNDING LAND USE AND ZONING:**

North:	Single-family dwellings	R-3 Residential
South:	Lincoln Christian School	R-3 Residential
East:	Single-family dwellings	O-2 Suburban Office
	HiMark Golf Course	R-3 Residential
West:	Single-family dwellings	R-3 Residential

**HISTORY:**

Feb 2005	Planning Commission hearing on the first Pine Garden PUD proposal. Planning Commission voted to recommend conditional approval, consistent with staff conditions.
Sep 2000	Change of Zone #3207 approved changing the zoning designation to B-2 Planned Neighborhood Business. However, this change was vetoed by the Mayor.
May 1979	The zoning update changed the zoning designation for this property from A-A Rural and Public to AG Agricultural.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Land Use Plan identifies this area as Urban Residential. (F 25)

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods. (F-17)

Affordable housing should be distributed throughout the region to be near job opportunities and to provide housing choices within every neighborhood. Encourage different housing types and choices, including affordable housing, throughout each neighborhood for an increasingly diverse population. (F-18)

Transit, pedestrian, and bicycle networks should maximize access and mobility to provide alternatives and reduce dependence upon the automobile. Sidewalks should be provided on both sides of all streets, or in alternative locations as allowed through design standards or the Community Unit Plan process. (F 66)

Many activities of daily living should occur within walking distance. Neighborhoods should include homes, stores, workplaces, schools and places to recreate. (F 66)

Interconnected networks of streets, trails and sidewalks should be designed to encourage walking and bicycling and provide multiple connections within and between neighborhoods. (F-66)

The key to both new and existing urban neighborhoods is diversity. For new neighborhoods, it is having a greater mix of housing types and land uses. New neighborhoods should have a variety of housing types and sizes, plus commercial and employment opportunities. Developing a pedestrian orientation of buildings and streets is also a priority for new areas. (F-71)

Structure incentives to encourage more efficient residential and commercial development to make greater utilization of the community's infrastructure. Incentives may include financial, process and/or regulatory conditions. (F 72)

Revise pertinent codes and regulations in order to remove impediments to achieving mixed-use residential and commercial development. (F 72)

Develop new design standards that encourage density, optimize infrastructure costs, and help lower the overall cost of property development. (F-72)

**TRAFFIC ANALYSIS:** The Comprehensive Plan identifies 84<sup>th</sup> Street as a Principal Arterial, Old Cheney Road as a Minor Arterial, and Wendell Way as a Local Street, both now and in the future. (E49, F 103). This development proposes one access to 84<sup>th</sup> Street, one access to Old Cheney Road, and one access to Wendell Way.

Both 84<sup>th</sup> Street and Old Cheney Road are shown in the Comprehensive Plan for improvement to 4 through lanes plus turning lanes. The right-of way standards for these improvements show 84<sup>th</sup> Street with 120 feet, and Old Cheney Road to the west with 100 feet. (F112) In addition, projects occurring at the intersection of arterial streets have greater right-of-way requirements which extend 2 blocks (approximately 700 feet) from the centerline. (F 112) In this case, the right-of-way needs increase to at least 130 feet.

Public Works is very opposed to allowing an access within the right turn lane due to past safety concerns in similar situations. Crashes occur from drivers not knowing whether another vehicle is turning at the drive or the corner ahead. These can either be rear-end crashes or more serious right angle types. Crashes also occur when motorists pull out of the driveway and try to cross all the lanes to get into the left turn lane. With the previous proposal, the applicant was able to convince city staff that by limiting the amount of development/trips they would have, it would not be a problem in this situation. There was also a concern that anyone wanting to go north on 84th St would have to go through the existing residential neighborhood to the north and get out on Wendell Way. Limiting the development was a means of protecting the existing residences from excessive increases in traffic.

The concern on Old Cheney is the closeness of the driveway to the intersection. There will be accelerating traffic leaving a signal as well as motorists slowing down to turn into the driveway.

They'll need to ensure sufficient storage and deceleration length for the right turn lane into the site.

**UTILITIES:** Utilities are available to serve this site. However, the proposed grading plan does not demonstrate that the commercial area can be served by sanitary sewer.

**ENVIRONMENTAL CONCERNS:** There is an existing row of mature trees located at approximately the boundary between the residential and commercial uses. These trees should be retained to serve as a buffer between the different uses. The plans indicate only a small number of the existing trees being removed, at a driveway location and within a building envelope. However, necessary grading changes may destroy all of these trees. Existing trees at the north boundary of the development should be retained as a buffer to existing single-family dwellings.

**ALTERNATIVE USES:** The existing AG zoning is not an appropriate urban zoning designation at this location. The most appropriate uses would be those permitted in the R-3 Residential district.

**ANALYSIS:**

1. This is a request to change the zoning designation from AG to R-3 PUD to allow for development of 28 dwelling units (only 20 shown) and 22,000 square feet of commercial/retail floor area.
2. The residential portion of this project is shown with 20 dwelling units in four 5-unit two-story buildings. The 10 units on the east side (units 11 through 20) are live/work units, capable of having home occupations that occupy up to 50% of the unit's floor area, and allowing up to 2 non-resident employees.
3. Additional parking is shown near the live/work residential units, in excess of the standard residential requirement.
4. There are no uses identified as permitted or prohibited for the commercial/retail area, therefore, it is premature to establish access to the area. For instance, the impact upon the residential area and existing residences cannot be determined. Also, access to 84<sup>th</sup> Street is through a right-turn lane. This was shown on the previous plan, and was acceptable to staff only because of the use limitations on the commercial/retail area. This access is not necessary for the residential area to function.

The overall concept may work, and the proposed access routes would be acceptable if combined with the use limitations as originally proposed by Applicant. Without an agreement on use prohibitions, the access as proposed cannot be supported.

This land is designated as urban residential in the Comprehensive Plan. Access to the site has already been established to come off Wendell Way to the north where homes have already been built. Applicant's proposed access to 84<sup>th</sup> St is into a future right hand turn lane. Having access into a right hand turn lane is not a good practice and could provide for future conflicts. Initially access into the right-hand turn lane was opposed. However, after long discussion, the access was agreed to, conditioned on limiting the intensity of the uses and traffic using the access point.

Since the access is into a right-hand turn lane, any commercial uses allowed should have very low demands on the peak hour. Land uses such as banks, restaurants and convenience stores have higher demands in the p.m. peak hour. This is the time when the right-hand turn lane would be a peak use. In addition to trying to keep the total number of trips low, there is the need to reduce the peak hour trips by prohibiting the types of uses which generate many trips in the peak hour. Thus, the prohibition on certain uses was included.

5. Although the revised PUD ordinance now allows for "a development plan not as detailed as the requirements for community unit plans or preliminary plats," the plan still "shall provide sufficient information to identify parcels included, proposed land uses and design standards for buildings." Here, additional information is needed to determine impacts on neighboring property and streets, grading impacts on trees to be preserved, and to demonstrate the commercial area can be served with sanitary sewer.
6. Signage for the live/work units is proposed to follow home occupation standards (2 square feet) facing 83<sup>rd</sup> Court, and 20 square feet facing 84<sup>th</sup> Street. These signs will be nonilluminated, nonanimated, and nonreflective. Signage in the commercial/retail area will follow the standard PUD signage regulations.
7. The Health Department has identified a 24-inch underground natural gas pipeline in Old Cheney Road, and an 18-inch underground natural gas pipeline in 84<sup>th</sup> Street. They have requested that occupied structures be prohibited within hazard areas associated with these pipelines. The City has not adopted requirements addressing such hazard areas. Before requiring such setbacks, these hazard areas should be studied further. There is a Planning/Health Department committee reviewing similar community health and safety issues.
8. The waiver request for a smaller paving radius in the South 83<sup>rd</sup> Court cul-de-sac is satisfactory to the Public Works Department. Although the standard paving radius for public cul-de-sacs is 43.5', a 30' radius has been acceptable in private roadways.

9. The waiver request for reducing the standard 27' paving width in South 83<sup>rd</sup> Court is satisfactory.
10. The request to waive the requirement that commercial lots have frontage and access to a public street is unnecessary since the only commercial lot meets this requirement.
11. The Parks and Recreation Department will collect impact fees in lieu of park land, since Phares Park is located in close enough proximity to serve the recreational needs of the residents.
12. Comments from the Public Works Department are attached.

Should the Planning Commission choose to recommend approval, Staff recommends approval to all waivers except frontage and access for commercial lots, and the following conditions, including restoration of the use limitations as originally proposed by Applicant:

**CONDITIONS:**

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
  - 1.1 Revise the plans in the following ways:
    - 1.1.1 Remove the parenthetical "(20,400 s.f. shown)" from Note 1.
    - 1.1.2 Revise Note 12 to refer to "2" outlots.
    - 1.1.3 Remove the second sentence in note 15.
    - 1.1.4 Replace Note 18 with language identifying the following use limitations on: uses allowed in the commercial/retail area include office, medical office, commercial/retail, and up to 1,500 square feet of restaurant, but no drive-thru. The following uses are not permitted: banks and savings and loan associations, convenience stores and gasoline stations, car wash facilities, warehousing, self-storage, and industrial uses. Remove the phrase "and use not be unreasonably prohibited."
  - 1.2 Provide a sketch plan showing the following:

- 1.2.1 Show that grading in the commercial/retail area can be accomplished to provide sanitary sewer service.
  - 1.2.2 Show that grading in the commercial/retail area will provide a slope no greater than 3% between the driveway connection to Old Cheney Road and the connection between the commercial/retail and residential areas.
  - 1.2.3 Show the necessary retaining wall between the residential and commercial/retail areas. Show that grading for the retaining wall can be conducted to preserve those trees identified to remain.
  - 1.2.4 Show the sidewalk along the northern portion of Outlot B located at least 9-1/2 feet from the back of curb.
- 1.3 Provide detention calculations.
- 1.4 Provide a drainage study and pipe sizing calculations.
2. This approval permits 28 dwelling units and 22,000 sq.ft. of commercial floor area, with waivers granted for the following: the preliminary plat process; reduce rear and front yard setbacks on Lots 1 through 20 as shown on the plans; Lots 1 through 20 may exceed the width to depth ratio as shown on the plans; nonstandard cul-de-sac radius for South 83<sup>rd</sup> Court as shown on the plans; 22 foot paving width in South 83<sup>rd</sup> Court as shown on the plans; units 11-20 may have up to 2 non-resident employees in home occupations and may use up to 50% of the floor area for home occupations.
3. If any final plat on all or a portion of the approved planned unit development is submitted five (5) years or more after the approval of the planned unit development, the city may require that a new planned unit development be submitted, pursuant to all the provisions of section 26.31.015. A new planned unit development may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city, and as a result, the planned unit development as originally approved does not comply with the amended rules and regulations.
4. Before the approval of a final plat, the private roadway improvements, sidewalks, sanitary sewer system, water system, drainage facilities, land preparation and grading, sediment and erosion control measures, storm water detention/retention facilities, drainageway improvements, streetlights, landscaping screens, street trees, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance.

5. Permittee agrees:

to complete the paving of South 83<sup>rd</sup> Court shown on the final plat within two (2) years following the approval of this final plat.

to complete the installation of sidewalks along the west side of South 84<sup>th</sup> Street, the north side of Old Cheney Road, and both sides of South 83<sup>rd</sup> Court as shown on the final plat within four (4) years following the approval of the final plat.

to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.

to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.

to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat

to complete the installation of public street lights along the west side of South 84<sup>th</sup> Street and the north side of Old Cheney Road within two (2) years following the approval of the plat.

to complete the installation of private street lights along South 83<sup>rd</sup> Court within this plat within two (2) years following the approval of the final plat.

to complete the planting of the street trees along the west side of South 84<sup>th</sup> Street, the north side of Old Cheney Road, and both sides of South 83<sup>rd</sup> Court within this plat within four (4) years following the approval of the final plat.

to complete the planting of the landscape screen within this plat within two (2) years following the approval of the final plat.

to complete the installation of the street name signs within two (2) years following the approval of the final plat.

to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner



which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to complete the public and private improvements shown on the Planned unit Development.

to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis and to maintain the plants in the medians and islands on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

to continuously and regularly maintain the street trees along the private roadways and landscape screens.

to submit to the lot buyers and home builders a copy of the soil analysis.

to pay all design, engineering, labor, material, inspection, and other improvement costs for the right turn lanes in Old Cheney Road and South 84<sup>th</sup> Street, and for the improvements in 84<sup>th</sup> Street and Wendell Way necessary to allow left turning movements at the intersection.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to protect the trees that are indicated to remain during construction and development.

to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.

to relinquish the right of direct vehicular access to South 84<sup>th</sup> Street and Old Cheney Road, except as shown.

General:

6. Before receiving building permits:

- 6.1 The permittee shall have submitted a revised and reproducible final plan and the plans are acceptable:
- 6.2 The construction plans shall comply with the approved plans.
- 6.3 Final plats shall be approved by the City.
- 6.4 Applicant agrees to pay for the design and installation of the right turn lane in Old Cheney Road.
- 6.5 Applicant agrees to pay for the design and construction changes necessary to allow left turns from Wendell Way onto 84<sup>th</sup> Street.

STANDARD CONDITIONS:

7. The following conditions are applicable to all requests:

- 7.1 Before occupying the buildings all development and construction shall have been completed in compliance with the approved plans.
- 7.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
- 7.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
- 7.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 7.5 The City Clerk shall file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.

Prepared by:

Greg Czaplewski, 441-7620, gczaplewski@lincoln.ne.gov

**Date:** April 28, 2005

**Applicant:** Realty Trust Group  
**and** 2300 South 48<sup>th</sup> Street  
**Owner:** Lincoln, NE 68506  
484.8484

**Contact:** Brian D. Carstens and Associates  
601 Old Cheney, Suite C  
Lincoln, NE 68512  
434.2424



## Change of Zone #05004 Pine Garden S. 84th & Old Cheney Rd.

2002 aerial

### Zoning:

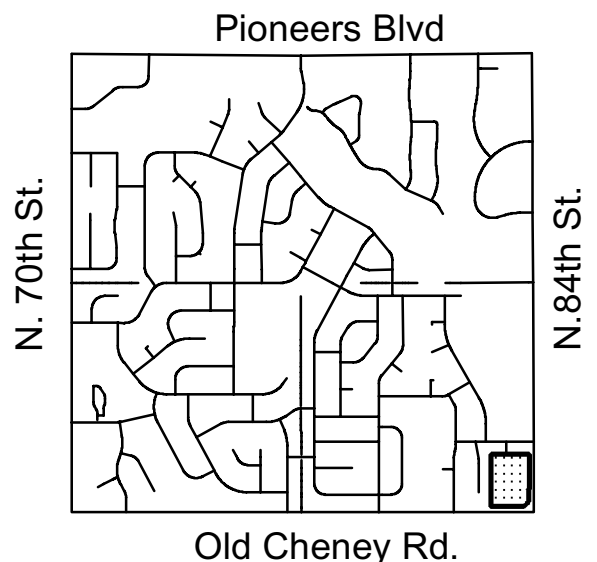
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 10 T09N R7E



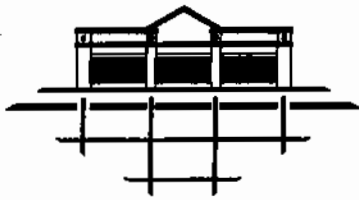
Zoning Jurisdiction Lines

City Limit Jurisdiction



Old Cheney Rd.

Lincoln City - Lancaster County Planning Dept.



**BRIAN D. CARSTENS AND ASSOCIATES**  
**LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN**  
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

April 14, 2005

Mr. Marvin Krout, AICP  
Director of Planning  
City of Lincoln/ Lancaster County  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: CHANGE OF ZONE - #05004- 'AG' TO 'R-3 P.U.D.'  
PINE GARDEN- SOUTH 84<sup>TH</sup> AND OLD CHENEY ROAD

Dear Marvin,

On behalf of Realty Trust Group, Inc, I am resubmitting the above mentioned application, to be reviewed again by the Planning Commission.

As you are aware, my client is/ was unhappy with a general note that was part of the original application that was previously approved by the Planning Commission. After lengthy debate with all parties, we are submitting the revised plans for your review.

We have revised the plans to remove the site details from Lot 21. We are noting the maximum square footage that is allowed. However, no specifics are shown or more importantly, prohibited at this time.

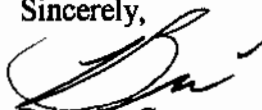
General note #18 has been revised as follows;

"The owner of Lot 21, the commercial designated portion, shall come forth with a specific use to be approved by the City Council at such time, and use not be unreasonably prohibited."

I had previously offered an idea to Steve Henrichsen, that would have placed a maximum trip generation 'cap' on Lot 21. That idea was unacceptable to Steve. I feel the trip cap is a good idea, as it offers the developer the flexibility they need yet, protecting the City from unexpected trip generation from the site.

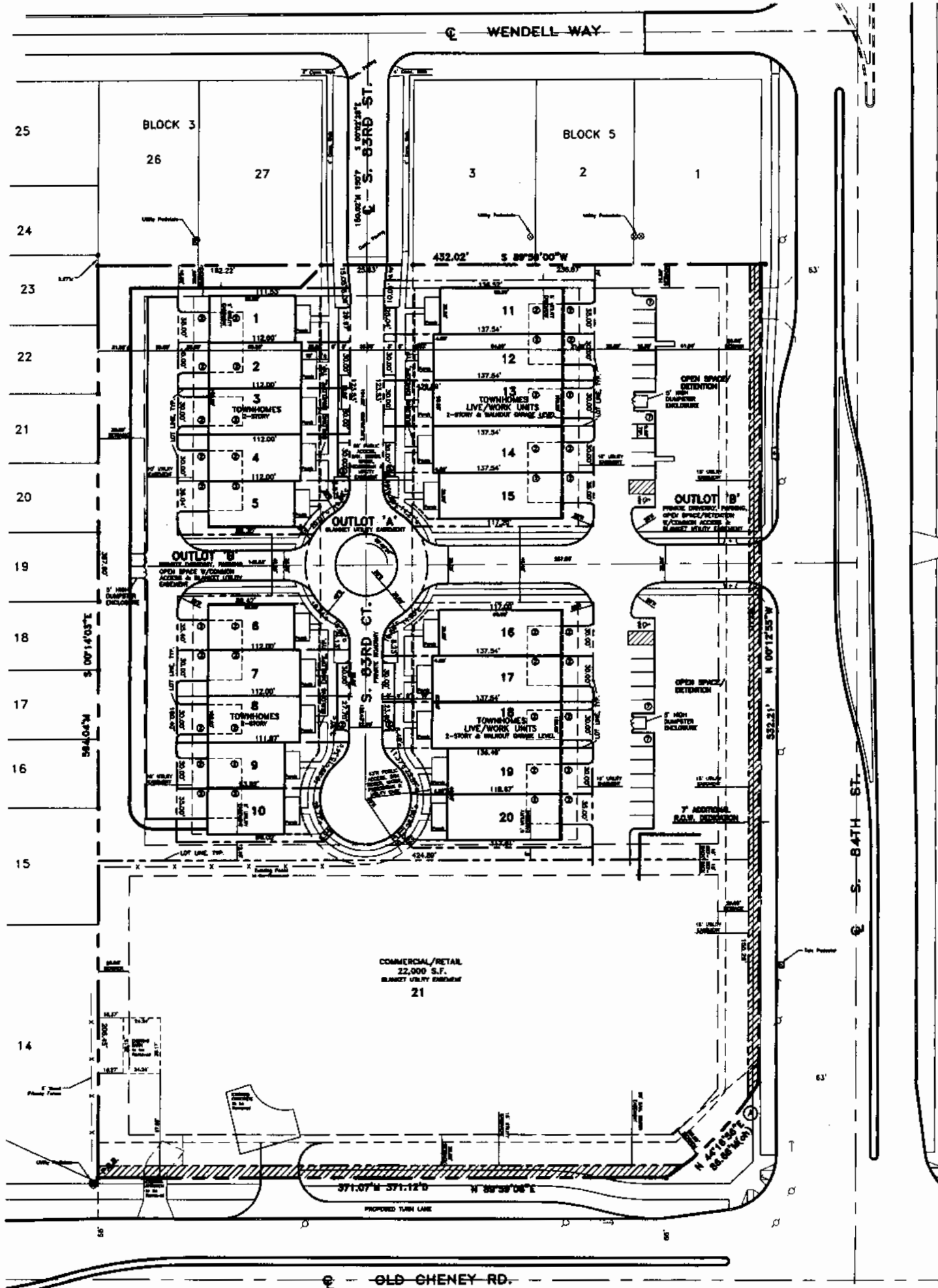
Please feel free to contact me if you have any further questions.

Sincerely,



Brian D. Carstens

CC: Mike Marsh



WENDELL WAY

S. 83RD ST.

S. 84TH ST.

OLD CHENEY RD.

BLOCK 3

BLOCK 5

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# Memorandum

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<b>To:</b>	Greg Czaplewski, Planning Department
<b>From:</b>	Chad Blahak, Public Works and Utilities Dennis Bartels Public Works and Utilities
<b>Subject:</b>	Pine Garden PUD CZ #05004
<b>Date:</b>	April 26, 2005
<b>cc:</b>	Randy Hoskins

Engineering Services has reviewed the submitted plans for the Pine Garden PUD, located on the northwest corner of South 84<sup>th</sup> Street and Old Cheney Road, and has the following comments:

- **Sanitary Sewer** - The following comments need to be addressed.
  - (1.1) The future commercial/retail area is shown to connect to a proposed sewer along Old Cheney Road. However, most of this area are shown to be approximately 10' below the grades along Old Cheney. Proposed grading needs to be shown for the area of the commercial uses to determine if the lots can be served as shown.
- **Water Main** - The water system is satisfactory.
- **Grading/Drainage** - The following comments need to be addressed.
  - (3.1) Detention calculations will need to be submitted with this plat. Although there are areas that are shown as detention areas, without the calculations there is no way to determine if the detention areas shown will be sufficient to satisfy the detention requirements. Depending on pipe sizing, the grading plan for the detention may not work.
  - (3.2) The driveway connection between the commercial area and the residential area does not appear to be desirable given existing grades on the site. As shown there is approximately 24' of elevation difference between the driveway connection to Old Cheney Road and the connection between the commercial and residential. This would require an average of 5.5% slope through the commercial area. Most commercial developments use a maximum of 3% slope.
  - (3.3) It appears that a retaining wall will be required between the future commercial area and the residential area. The plans indicate that existing trees will be saved in this location. The needed construction and grading will most likely destroy these trees. If the trees are shown to be saved the wall and future grading for the commercial area should be shown indicating how the trees are going to be saved.
- **Streets/Paving** - The following comments need to be addressed.



April 26, 2005

- (4.1) Public Works approves the waiver of design standards for permanent turnaround geometry in a private street.
- (4.2) The requested waiver of required paving width for South 83<sup>rd</sup> Street is approved by Public Works as separate setbacks are shown creating two unobstructed through lanes.
- (4.3) The previous submittal for this plat referenced use limitations on the commercial area of this plat. The use limitations were meant to limit commercial traffic volume that would pass through the residential portion of this plat to and from the intersection of 84<sup>th</sup> and Wendell Way and the drive access in the 84<sup>th</sup> Street turn lane. Public Works recommends denial of this plat as shown without use restrictions. If this plat is approved, the use restrictions as shown on the original submittal for this PUD need to be identified on these plans.

**General** - The information shown on the preliminary plat relating to the public water main system, public sanitary sewer system, and public storm sewer system has been reviewed to determine if the sizing and general method providing service is satisfactory. Design considerations including, but not limited to, location of water main bends around curves and cul-de-sacs, connection of fire hydrants to the public main, temporary fire hydrant location, location and number of sanitary sewer manholes, location and number of storm sewer inlets, location of storm sewer manholes and junction boxes, and the method of connection storm sewer inlets to the main system are not approved with this review. These and all other design considerations can only be approved at the time construction drawings are prepared and approved.